

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 1/31/2020

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DANIEL PAGAN,

Plaintiff,

-against-

ZAZZLE, INC., ET AL.,

Defendants.
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19 Civ. 10122 (LGS)

ORDER

LORNA G. SCHOFIELD, District Judge:

WHEREAS, the Order at Dkt. No. 6 requires Plaintiff to file the Affidavits of Service of the Complaint by January 30, 2020. Because the Complaint was filed on October 31, 2019, Plaintiff was required to serve the Complaint by January 29, 2020, under Federal Rule of Civil Procedure 4(m);

WHEREAS, rather than file the Affidavits of Service as the Order at Dkt. No. 6 requires, Plaintiff instead filed an Amended Complaint on January 17, 2020, without requesting permission from the Court. The filing of the Amended Complaint effectively restarted Plaintiff's time to serve. It is hereby

ORDERED that Plaintiff shall serve the Amended Complaint and file the Affidavits of Service by **February 17, 2020**. If Plaintiff does not meet this deadline, this action -- which began on October 31, 2019, over three months ago -- may be dismissed for failure to prosecute.

Plaintiff is advised that he was required to seek the Court's leave to amend the Complaint. Federal Rule of Civil Procedure 15(a)(1) only permits a Plaintiff to amend a pleading as of right within "21 days after serving" the Complaint or 21 days after service of a

Defendant's responsive pleading or motion. Neither of these circumstances exists here. The docket does not indicate Plaintiff ever served the Complaint and therefore Plaintiff had no right to amend within 21 days of service. As Federal Rule of Civil Procedure 15(a)(2) provides, Plaintiff "may amend its pleading only with . . . the court's leave."

The Clerk of Court is respectfully directed to mail a copy of this Order to Plaintiff.

Dated: January 31, 2020
New York, New York

A handwritten signature in black ink, appearing to read "Lorna G. Schofield", is written over a horizontal line.

LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE